

**REMARKS**

Claims 5, 10, 15 and 20-40 are pending. By this Amendment, claims 29-40 are added. No new matter has been added. In particular, New independent claims 29, 32, 35 and 38 are similar to claims 5, 10, 15 and 20, respectively, except that the space between the two electrode layers is equal to or smaller than approximately 0.4  $\mu\text{m}$ . New claims 30 and 31 correspond to claims 21 and 22, respectively; new claims 33 and 34 correspond to claims 23 and 24, respectively; new claims 36 and 37 correspond to claims 25 and 26, respectively; and new claims 39 and 40 correspond to claims 27 and 28, respectively. Reconsideration is respectfully requested in view of the above amendments and the following remarks.

**I. Request for Acknowledgment of Receipt of Priority Documents**

The Office Action has not acknowledged the Priority Documents of Japanese Patent No. 2000-237365, filed August 4, 2000 and Japanese Patent No. 2001-213544 filed July 13, 2001. These Priority Documents were submitted on November 5, 2001. Accordingly, please acknowledge receipt of the Priority Documents to indicate that the requirements of 35 U.S.C. §119 has been satisfied.

**II. The Claims Define Patentable Subject Matter**

The Office Action rejects claims 5, 10, 15 and 20-28 under 35 U.S.C. §103(a) over Aoki (U.S. Patent No. 6,587,315). The rejection is respectfully traversed.

Aoki at col. 61, lines 24-27, discloses that “The magnetoresistive-effect device tested in measurements is a spin-valve type thin-film device shown in FIG. 5. The width dimension of the top surface of the multilayer film in the magnetoresistive-effect device is 1.4  $\mu\text{m}$ .”

In other words, the electrode spacing in Aoki can be obtained by: [The width dimension of the top surface of the multilayer film]—[Overlap]×2. Aoki discloses that the overlap is preferably within a range from 0 to 0.08  $\mu\text{m}$  (see, for example, col. 18, lines 37-

39). Based on these values, the electrode spacing in Aoki can be calculated to be within a range from 1.24 to 1.4  $\mu\text{m}$ . This range is nowhere in the range of “equal to or smaller than approximately 0.6  $\mu\text{m}$ ” as recited in claims 5, 10, 15 and 20, and nowhere in the range of “equal to or smaller than approximately 0.4  $\mu\text{m}$ ” as recited in claims 29, 32, 35 and 38.

Accordingly, the feature that the electrode spacing is equal to or smaller than approximately 0.6  $\mu\text{m}$ , as recited in independent claims 5, 10, 15 and 20, and the feature that the electrode spacing is equal to or smaller than approximately 0.4  $\mu\text{m}$ , as recited in independent claims 29, 32, 35 and 38 define patentable subject matter.

Moreover, as evidence that Aoki's disclosure does not render obvious the features of the claimed invention, a Rule 132 Declaration is submitted. The Rule 132 Declaration submits, as evidence, comparative experiment results between the device of the claimed invention and Aoki's device.

Accordingly, independent claims 5, 10, 15 and 20 define patentable subject matter. Claims 21-28 depend from the respective independent claims, and therefore also define patentable subject matter. Therefore, withdrawal of the rejection under 35 U.S.C. §103(a) is respectfully requested.

Further, claims 29-40 define patentable subject matter for the reasons discussed above.

### **III. Conclusion**

In view of the foregoing amendments and remarks, this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 5, 10, 15 and 20-40 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

  
James A. Oliff  
Registration No. 27,075

Yong S. Choi  
Registration No. 43,324

JAO:YSC/tls

Attachment:  
Rule 132 Declaration

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**OLIFF & BERRIDGE, PLC**  
**P.O. Box 19928**  
**Alexandria, Virginia 22320**  
**Telephone: (703) 836-6400**

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